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GLOBAL CONSULTATIONS ON INTERNATIONAL PROTECTION: REPORT OF THE MEETINGS WITHIN THE FRAMEWORK OF THE STANDING COMMITTEE (THIRD TRACK)

The dates and themes of these meetings were as follows:

1st meeting (8-9 March 2001): Protection of refugees in mass influx situations.

2nd meeting (28-29 June 2001): Protection of refugees in the context of individual asylum systems.

3rd meeting (27-28 September 2001): Protection of refugees in the context of individual asylum systems, (cont'd).

4th meeting (22-24 May 2002): The search for protection-based solutions; protection of refugee women; protection of refugee children.

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REPORT OF THE FIRST MEETING IN THE THIRD TRACK*
(8-9 March 2001)

I. INTRODUCTION

1. The first substantial meeting of the third track of the Global Consultations on International Protection on 8 and 9 March 2001 was chaired by the Rapporteur of the Executive Committee, Mr. Haiko Alfeld (South Africa). Opening the meeting, he noted the enormous interest generated by the Global Consultations, as witnessed by the broad geographical representation and the presence of a large number of NGOs. He called for an interactive and constructive dialogue on the important issues before the meeting. After a short welcoming statement by the Assistant High Commissioner, the Director of International Protection addressed the meeting. She described it as beginning the process to re-consolidate support around the foundation principles of refugee protection and to set the protection agenda for the future. She briefly outlined the four subjects for discussion under the theme of the protection of refugees in situations of mass influx (see below).

2. The ensuing debate under all four topics of the theme was participatory and broad ranging. A large number of issues were discussed and a broad array of opinions and perspectives canvassed. Delegations expressed their appreciation for the timeliness and importance of the Global Consultations.

II. ADOPTION OF THE AGENDA

3. The agenda (EC/GC/01/3) was adopted without amendment.

III. PROTECTION OF REFUGEES IN MASS INFLUX SITUATIONS

A. Overall Protection Framework

4. The Chief of the Standards and Legal Advice Section of the Department of International Protection introduced the background note on "Protection of Refugees in Mass Influx Situations: Overall Protection Framework" (EC/GC/01/4).

5. With 43 interventions, there was unprecedented participation on this complex topic. The overwhelming nature of protection needs in mass influx situations was repeatedly underlined. There was broad recognition of the primacy and centrality of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol in the international refugee protection regime, including in situations of mass influx. Absolute respect for the right to seek asylum and the principle of *non-refoulement* was underlined. Many delegations stressed the importance of the full and inclusive application of the Convention as the basis for discussions in the Global Consultations. The applicability of complementary regional refugee instruments, particularly the 1969 OAU Refugee Convention and 1984 Cartagena Declaration, was recalled. Several delegations also referred to the relevance of Executive Committee conclusions, especially those relating to large-scale influx, in particular Conclusion No. 22 (XXXII). The applicability of human

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* Adopted on 28 June 2001

rights instruments and international humanitarian law in ensuring refugee protection in situations of mass influx was noted as other important sources for standards of treatment. In addition, the link between protection and assistance was underlined by several delegations.

6. Many delegations also stressed the importance of addressing the root causes of mass flows. Conflict prevention, early warning, development cooperation, poverty eradication, human rights promotion, and the economic dimension of displacement were mentioned as the main measures to be considered in this regard. There was also widespread support for more attention to be given to finding durable solutions in protracted situations.

7. Many delegations emphasized the need for a strengthened role for UNHCR in mass influx situations, including rapid operational presence, full and unhindered access, and a strong monitoring and intervention role.

8. Given the complexity and diversity of mass influxes, which were by their very nature mixed in character, some States noted the need for additional measures and more comprehensive approaches to address such situations. Other issues raised included the importance of providing support to host communities to help reduce hostility towards refugees and the question of addressing protection needs within the country of origin. Many delegations drew attention to the need for a more equitable distribution of the responsibility for protecting refugees. Several host countries stressed the need for support in shouldering the burden through the provision of financial and technical support, as well as efforts to build local capacity.

1. *Prima facie* determination on a group basis

9. Most delegations recognized the value of *prima facie* recognition of refugee status on a group basis in mass influx situations. African delegations drew attention to the abundant experience on their continent and to the lessons that could be drawn, while others mentioned the difficulty of implementing such a response in countries with highly developed systems focusing on individual recognition of refugee status.

10. Several States felt that individual processing to identify and exclude persons not deserving of international protection under the refugee instruments should begin as soon as possible after arrival, noting the operational difficulties, and suggesting that appropriate modalities for exclusion be examined and technical support provided to host countries. One State made an extensive presentation on how to elucidate the definition of criteria for exclusion under Article 1 (F) by reference to a number of international instruments.

11. Many States highlighted the critical importance of enhancing the legal and operational capacity of host States, particularly developing countries confronted with large and protracted refugee situations. It was proposed that the international community, including through UNHCR, should give sustained attention to this issue.

12. There was broad reiteration of voluntary repatriation as the preferred durable solution to mass influx. In order to be effective, planning and provision for voluntary repatriation should begin, according to some

delegations, at the start of a refugee crisis. One delegation noted that the nature of the conflict might require diverse approaches to finding appropriate solutions. Delegations pointed to the need for a comprehensive durable solutions strategy, which secured the support of the international community and explored all aspects of potential solutions. A number of delegations hosting large numbers of refugees called upon the international community to make energetic efforts to create an enabling environment for voluntary repatriation and provide adequate resources.

13. Resettlement was acknowledged as playing an important responsibility-sharing role. A number of States pointed to the need for flexible resettlement criteria in *prima facie* situations, given that many of the States hosting mass flows are among the world's least developed countries and local integration for large numbers is therefore difficult. Some States indicated that they had already introduced flexible criteria, including acceptance for humanitarian reasons, but stressed that their application had to be carried out in conjunction with individual screening of candidates. UNHCR was asked to play an intermediary role in the process. It was proposed that UNHCR address the question of criteria further, through regular resettlement consultations. The Office was also asked to examine its own resettlement submission process for *prima facie* cases.

2. Temporary protection

14. Interventions on temporary protection generally stressed its exceptional and interim nature, and its compatibility with the 1951 Convention. There was widespread acknowledgement that temporary protection must be limited in time. Both the Council of Europe and European Union (EU) Member State interventions offered helpful information on the concept of temporary protection in Europe and the ongoing harmonization process within the EU framework, while a written presentation of the European Commission was also drawn to the attention of delegations. The complementarity of these processes with the Global Consultations was noted.

15. Delegations observed that there were different understandings of the concept of temporary protection. It was suggested that the term "temporary protection" will be defined more precisely through an inclusive dialogue with the stakeholders to ensure a common understanding of the concept. Several delegations stressed that temporary protection was a concept applicable only in mass influx situations. Many speakers highlighted the difficulty of defining a mass influx and the period for which temporary protection should last. It was stressed that mass influx normally included some degree of suddenness and that numbers should be such as to make individual determination impracticable. Many delegations noted the importance of UNHCR's involvement and advice in this regard. It was noted that standards of treatment available to refugees benefiting from temporary protection will be in conformity with relevant EXCOM conclusions, and anything above that should be voluntarily assumed by States.

16. A number of delegations referred to the criteria and modalities for ending temporary protection. Some States stressed the role of UNHCR in providing guidance on the viability, conditions and timing of return. It was noted by many that even where temporary protection ends, some refugees will continue to have protection needs that must be addressed. Many States

emphasized that temporary protection should not prejudice the right of those enjoying it to apply for refugee status under the 1951 Convention and to have their claims examined.

3. Study on protection in mass influx situations

17. There was widespread endorsement for a comparative study of protection responses to mass influx. Delegations suggested that it should be practical, diagnostic and evaluative, and should include "lessons learned" from mass influx situations in Africa (where experience with this phenomenon is particularly rich), Asia and Latin America, as well as analysis of legal developments in the EU and elsewhere. The study should look at the quality of protection provided under these mechanisms, the applicability of the Convention, its flexibility in such situations, and solutions in protracted refugee situations. It was suggested that a preliminary report could usefully be ready for consideration at the meeting of States Parties on 12 December 2001.

B. Civilian character of asylum, including separation of armed elements and screening in mass influx situations, as well as status and treatment of ex-combatants

18. The Deputy Director of the Department of International Protection summarized the background note on "The Civilian Character of Asylum: Separating Armed Elements from Refugees" (EC/GC/01/5). The Director of UNHCR's Emergency and Security Service made a presentation of the operational measures to enhance security. There was a rich and constructive debate, with statements by 23 delegations. The recommendations and conclusions in the background paper were broadly supported, while the important contribution of the regional meeting held in Pretoria, South Africa, on 26-27 February 2001 was also welcomed. A summary of the conclusions of this meeting on Maintaining the Civilian and Humanitarian Character of Asylum, Refugee Status, Camps and Other Locations will be issued by the Secretariat as a separate document.

1. Civilian character of asylum

19. There was broad agreement that maintaining the civilian character of asylum was fundamental to the ability and willingness of States to receive and protect refugees. Most delegations noted the serious repercussions of insecurity on refugee protection, particularly for women and children, as well as its impact on host communities. A number of delegations emphasized that adequate security was also necessary to enable UNHCR staff and other humanitarian workers to provide protection and assistance. They therefore supported measures to improve staff security. There was broad agreement that drawing a clear distinction between refugees, on the one hand, and armed elements and others not deserving of protection under the refugee instruments, on the other, was in the interests of States, refugees and UNHCR.

20. Several delegations emphasized the importance of a comprehensive strategy to address the issue of security of refugee camps and settlements through a range of measures. The identification, separation and disarmament of armed elements were seen as important elements of such a strategy.

Preventive measures, including the location of camps a safe distance from borders, advocacy, training and education were underlined by a number of delegations, as was early warning.

2. Roles and responsibilities

21. Many delegations underlined the primary responsibility of host States, under international humanitarian law, for ensuring security in refugee camps and refugee-populated areas, including the identification and separation of armed elements. At the same time, however, they also highlighted the lack of capacity and resources, and the operational and logistical constraints that severely restrict the ability of States to meet their obligations.

22. International solidarity and support to host States in the context of burden or responsibility sharing was acknowledged as essential by many delegations. A number of delegations recognized, however, that the role of humanitarian organizations in supporting host States to identify and separate armed elements is limited and that greater attention should be given to these issues by the peacekeeping and political components of the United Nations system, particularly the UN Security Council. One delegation offered to draw this issue to the attention of the Security Council. The Chairman of the Executive Committee and the High Commissioner were also invited to bring the matter to the attention of the Security Council and the United Nations Secretary-General respectively.

23. Several delegations referred to the need for a designated agency to assist and support States faced with security problems in the context of a refugee crisis. In this respect, other speakers called for further examination of existing structures and agencies, including the United Nations Department of Peacekeeping Operations (DPKO). The importance of inter-agency cooperation, in particular among the International Committee of the Red Cross (ICRC), the International Organization for Migration (IOM) and UNHCR, was stressed. Delegations welcomed the detailed clarification by ICRC of the international norms and its role in this context, and noted the on-going consultations between ICRC and UNHCR to strengthen cooperation in this area. A number of delegations mentioned the recommendations of the recent Brahimi Report on UN peace operations.

24. Several speakers underlined the importance of cooperation between host States and UNHCR within the context of its mandate for the international protection of refugees. UNHCR's role in registration, training and protection monitoring was mentioned, as were the initiatives taken by UNHCR to strengthen the capacity of host States through "security packages".

3. Operational measures to enhance security

25. Many delegations recognized that the issue of the separation of military elements from refugees clearly brought to the fore important legal and operational issues. There was broad agreement that those deemed to be continuing military activities could not be considered to be refugees and clearly fall outside the ambit of international refugee protection. Nonetheless, the right of former combatants to seek asylum was recognized. In this context, it was emphasized that the exclusion clauses should be applied in an individualized manner with due safeguards and taking into

account international criminal law. UNHCR was asked to develop operational guidelines to assess individual claims for refugee status, in the context of the group determination in situations of mass influx where there was a likelihood of exclusion. It was noted that the issue of exclusion would also be examined in the second track of the Global Consultations.

26. A number of delegations asked UNHCR to develop practical tools and standards, in keeping with international humanitarian law, refugee law and human rights law, in order to separate armed elements from the refugee population. Other relevant organizations, non-governmental organizations (NGOs) and governments should also be involved in the process.

27. The need to ensure adequate security and policing measures was also recognized as a key factor to safeguard the civilian character of asylum. Delegations mentioned the possibility of providing police training or more immediate support through stand-by arrangements, so as to address security concerns as early as possible. It was proposed that the experience of civilian police models as used in Kosovo and East Timor could be applied to other refugee situations. It was also suggested that the "security package" pioneered in the United Republic of Tanzania might be standardized and replicated in other situations and that lessons learned from operations involving a security-support component should be examined. More broadly, early warning and preventive measures were stressed as important, while one speaker emphasized the importance of combatting the spread of the sale of small arms and light weapons.

28. Several delegations underlined the responsibility of host States for ensuring that refugee camps were located at a safe distance from the border. UNHCR was invited to define the appropriate "safe distance".

29. Many delegations also made particular reference to the issue of child combatants, underlining the need for both demobilization and rehabilitation, as well as tracing with the aim of family reunion. A number of speakers stressed the importance of education programmes for refugees, including secondary education, noting their value as a tool of rehabilitation and to help prevent subversive and criminal activities by refugee youth. Given the interest of delegations in these issues and the range of proposals made at the Pretoria meeting, it was proposed that they be considered further under the fourth theme of track 3 of the Global Consultations on refugee women and children.

C. Registration

30. The Acting Director of the Division of Operations Support introduced the background note on "Practical Aspects of Physical and Legal Protection with regard to Registration" (EC/GC/01/6) and described the background, purpose and broad outlines of Project PROFILE. The debate on this topic displayed the synergy between operational realities and protection requirements. Twenty-two speakers took the floor, many sharing their national experience.

31. There was broad recognition of the primary responsibility of States for registration. Where registration is carried out by UNHCR or other partners, the need for host States to be kept properly involved and informed throughout

was highlighted. Other delegations drew attention to registration as a multi-faceted function that could benefit from inter-agency and NGO cooperation.

32. All speakers recognized the importance of registration as an essential tool of protection. Many delegations recognized the importance of using registration data in a principled manner, based on agreed standards. The conclusions of the background paper were broadly endorsed and many delegations expressed support for elaborating such standards in an Executive Committee conclusion.

33. Several speakers stressed the importance of confidentiality and of the need to establish appropriate safeguards for information sharing and cooperation. They also highlighted the potential risk to refugees of providing personal data. It was noted that refugees must be informed about the uses to which information will be put, and assured of the confidentiality of their responses. This not only acknowledges the need for sensitivity in dealing with the refugees, but also recognizes that accurate data cannot be obtained in the absence of such assurances. UNHCR was asked to work with States to ensure the compatibility of States' systems, amongst other things, with confidentiality requirements. The importance of striking a balance between sharing data and not putting persons at risk was stressed.

34. A number of delegations emphasized the value of a dynamic approach and keeping registration data up-to-date, in view of shifting populations and circumstances, including refugee births and deaths. There was support for registration in all refugee situations, not just in situations of mass influx or future movements, but also for existing, inadequately registered populations. The importance of easy access by refugees to registration officials and, in this connection, the need for a central location for registration data was stressed. Many delegations underlined the need for a system that works on a global level that can address all aspects of the cycle of displacement, including durable solutions.

35. There was widespread agreement that improved registration will benefit both refugees and States; refugees will have better access to their rights, and States will be better able to respond to and manage refugee protection and assistance. It was also emphasized that improved registration will enhance the activities of humanitarian agencies and NGOs and underpin planning for durable solutions. The fact that improved registration plays a key role in helping refugees maintain their personal and national identity at a time of great personal trauma, particularly when refugees have been stripped of their identity documents, was noted. It also helps address situations of statelessness that might otherwise arise. As one delegation put it, improved registration has so many advantages, there should be no doubt that we really need it and should have it.

36. A number of delegations stressed the value to refugee women and children of improved, individual registration. It assists tracing and family reunification, promotes increased participation by women in camp life, and helps them to make more informed decisions about durable solutions. It was noted that information about the number and age of children in the refugee population is crucial, for example, to target programmes to adolescents at risk of sexual exploitation or military recruitment. It was also noted that

survivors of torture and persons with mental health disabilities should be accorded special attention.

37. The acknowledged importance of registration led many delegations to express support for it as a priority in terms of resources. The critical role of material, financial, technical and human resources to assist host countries in registering refugees was emphasized by a number of delegations. Several delegations explained in detail some of the drawbacks of their current reliance on cumbersome, paper-based processes and urged donor governments to support their efforts to update and improve their systems. A number of delegations expressed appreciation to UNHCR for its assistance in national capacity building.

38. A large number of delegations welcomed UNHCR's initiative in launching Project PROFILE. Several donor States expressed support for Project PROFILE and offered to share both resources and expertise. One delegation cautioned against dependence on overly sophisticated technology. Operationally, the aim should be a fast, efficient, not-too-technologically-sophisticated system that will amongst other things prevent fraud and multiple registration. UNHCR underlined the need for earmarked resources, including human resources, for such a large-scale project intended to design practical solutions to real problems. A number of delegations encouraged UNHCR to work with a wide range of partners, including host States, donor States, NGOs and the private sector, and to draw on the expertise and experience of States already implementing advanced registration procedures.

C. Mechanisms of international cooperation to share responsibilities/burdens in mass influx situations

39. The Deputy Director of the Department of International Protection introduced the background note on "Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations" (EC/GC/01/7). There was a broad-ranging and constructive discussion of what was recognized by several speakers as a difficult but vital subject. In all, some 28 delegations spoke on this crosscutting theme of the Global Consultations. Burden or responsibility sharing was described as not just a financial question, but a humanitarian concept and a "practical necessity", which should remain a priority issue for the Executive Committee.

40. Further accessions and withdrawals of reservations to the 1951 Convention and its 1967 Protocol were advocated as a responsibility sharing tool. Living up to the Convention was also described as an important contribution to burden and responsibility sharing. The existence of such measures was reiterated as not being a precondition for the obligation to uphold the principle of first asylum.

41. A number of delegations from countries hosting large numbers of refugees described the massive impact these refugees have on their society, infrastructure, economy and environment. Some warned that the international system for refugee protection might collapse unless the international community assumed its responsibility to help States shoulder the burden of hosting refugees, particularly for protracted periods. A number of speakers called for greater acknowledgement of the vital, but less easily quantifiable, contribution towards refugee protection made by hosting States,

compared with the cash contributions made by donor States. Several speakers acknowledged the weight of the multi-faceted burden borne by many developing countries, which willingly host large numbers of refugees, often for many years.

1. Global and comprehensive approaches

42. Many speakers stressed the importance of comprehensive and holistic approaches to situations of mass influx. It was acknowledged that such a global approach can be enhanced by regional arrangements. The Comprehensive Plan of Action for Indo-Chinese Refugees (CPA) and the work of the EU's High Level Working Group on Asylum and Migration were cited as positive examples of such approaches. A number of delegations especially emphasized the importance of the inclusion of a broad range of States and actors, including the country of origin, in the search for durable solutions, while it was also noted that coalitions would vary depending on the particular influx. Several delegations spoke of the need for improved cooperation and coordination between the various international agencies.

2. Preventive and preparedness strategies

43. Many speakers cited the importance of measures to prevent the need for flight and to enhance preparedness as another aspect of responsibility sharing. In particular, they mentioned the importance of strategies to promote respect for human rights, good governance, the eradication of poverty, mediation of potential or ongoing conflicts, means of addressing broader migration pressures and other measures. Others highlighted the need for enhanced preparedness, including measures to strengthen security in refugee camps. It was felt that existing stand-by arrangements could be further enhanced by stronger regional-level involvement.

3. Funding and other measures

44. Several speakers stressed the need for predictable and adequate funding of the UNHCR budget as being essential to the provision of international protection to refugees. Regarding possible projects for a permanent refugee emergency fund drawing upon the experience of the EU's European Refugee Fund, a number of donor country delegations saw merit in a broader-based fund. Among other issues receiving support were the question of debt relief for countries hosting large refugee populations and the importance of systematic, participative programmes. In particular, many delegations spoke of the importance of linking debt relief and broader development projects. Among the many areas where support was deemed crucial were infrastructural development, strengthening local administrative machinery, education programmes to prepare for return and enhance respect for local laws, curbing crime, and the transfer of technology to improve local health systems.

4. Humanitarian evacuation/transfer

45. Several States expressed support for further investigation of the idea of prearranged quotas for the emergency evacuation of refugees within the context of a comprehensive approach. Some noted that such quotas should not be used as a substitute for access to asylum and the question was raised as to how an evacuation pool related to the existing pool of States offering

resettlement to refugees. A number of delegations referred to the experience of the humanitarian evacuation and transfer of refugees in the 1999 Kosovo crisis and described it as a rarely available option and a relatively expensive way of minimizing the burden borne by States of first asylum.

46. Other issues requiring clarification were how to achieve family unity and/or reunification, how to ensure the informed consent of refugees and how to define when evacuation is appropriate. Some stressed that when considering such issues, it was important to bear in mind the responsibility of the international community to find solutions to the causes of flight so as to enable safe return. Further examination of how prearranged humanitarian evacuation quotas might operate as part of a comprehensive strategy was suggested, taking into account the experience of the Humanitarian Issues Working Group (HIWG) and the EU in the former Yugoslavia.

5. Planning for a range of durable solutions

47. In seeking solutions, many delegations reiterated the need to address the root causes of flight, and reaffirmed that voluntary repatriation was the preferred solution. Resettlement was described as an important tool of burden or responsibility sharing. It was suggested that its role in this respect be investigated further, including its relationship to other durable solutions and to humanitarian evacuation.

48. Several delegations cited the limited number of States willing to accept significant numbers of refugees for resettlement. The recent diversification of the number of States offering resettlement places was welcomed. There was some concern that development of a resettlement pool, as recently proposed in the EU context, should not prejudice the right to seek asylum there. Some delegations sought a broadening of resettlement criteria, while others expressed caution about using resettlement extensively in mass influx situations, where they felt voluntary repatriation was the more appropriate response.

6. Further analysis of practical measures and mechanisms

49. There was broad agreement on the importance of and the need to investigate further practical measures for responsibility and burden sharing, particularly in mass influx situations. Generally, the focus was on ways to ensure more prompt, coordinated, predictable, comprehensive and multilateral responses to the mass influx of refugees. Delegations broadly supported the conclusions of UNHCR's background note to explore of appropriate sharing measures and mechanisms further.

IV. ANY OTHER BUSINESS

50. The Director of International Protection was asked to brief delegations on the progress made on other tracks of the Global Consultations at the meeting of the Standing Committee on 10 March 2001. An informal briefing for this purpose was convened on 13 March 2001.

V. CHAIRMAN'S SUMMARY

51. At the end of the lively and rich discussions, the Chairman read out a summary that was subsequently distributed on 26 March 2001. The summary identified key issues, theme by theme, as well a range of specific suggestions; protection of refugee children.

REPORT OF THE SECOND MEETING IN THE THIRD TRACK*
(28-29 June 2001)

I. INTRODUCTION

1. The meeting was chaired by the Rapporteur of the Executive Committee, Mr. Haiko Alfeld (South Africa). In a brief opening statement, he commended the staff of the Department of International Protection (DIP) for their tireless work on the Global Consultations, which were proving to be both resource-intensive and demanding. The Chairman also commended UNHCR for encouraging participants from developing countries to attend and saluted non-governmental organizations (NGOs) for their continuing valuable contribution to the Global Consultations process. He urged States and other stakeholders to participate in concerted follow-up action, so as to shape the Agenda for International Protection.

2. A brief welcoming address by the Deputy High Commissioner, was followed by a statement from a refugee woman, who described her experiences, including detention, while seeking asylum. She closed her remarks by making a ringing plea of "Action please".

II. ADOPTION OF THE DRAFT REPORT OF THE FIRST MEETING

3. The Chairman presented for approval the draft report of the first meeting of the Global Consultations. Amendments were proposed by two delegations with respect to paragraphs 5, 15 and 17 of the draft report. With these modifications, the report was adopted (EC/GC/01/8/Rev.1).

III. ADOPTION OF THE AGENDA

4. The agenda (EC/GC/01/10/Rev.1) was adopted.

IV. PROTECTION OF REFUGEES IN THE CONTEXT OF INDIVIDUAL ASYLUM SYSTEMS

A. Refugee Protection and Migration Control

5. The Chairman welcomed the presence for the discussion of this item of Mr. Gervais Appave, Coordinator of the Migration Policy and Research Program (MPRP) at the International Organization for Migration (IOM).

6. The Director of the Department of International Protection introduced document EC/GC/01/11 providing a joint reflection on the topic by UNHCR and IOM. Its aim was to present the perspectives and suggested course of action of two organizations with shared concerns, each with different contributions to make to address them, and with a common interest of coordinating their respective contributions. The displacement environment in which the 1951 Convention must operate and the growth of irregular migration and smuggling of people for profit had led to a crowding of the space in which this Convention had to function. The overall challenge was to identify ways to meet the protection needs of refugees and asylum-seekers in situations where

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* Adopted on 27 September 2001

migration and asylum intersected. The Director noted that the paper suggested general lines of cooperation between UNHCR and IOM (paras. 45-48), including activities that each organization might pursue separately, albeit in tandem, as well as issues requiring a State response.

7. The Coordinator of IOM's MPRP added that the paper was about linkages between migration and asylum. Since in reality refugees move within a broader, mixed flow that include both forced and voluntary movements, the related policies if kept totally separate may lead to guidelines which are incoherent at best - contradictory at worst. The main question at stake was how to ensure the integrity of refugee protection processes in the complex world of migratory realities. IOM hoped to open a broad debate among its member countries on the migratory aspects of the phenomenon at its Council meeting in November 2001.

8. During the ensuing debate, delegations from the countries concerned introduced summaries of the regional meetings held in Budapest, Macau, and Ottawa. There was broad recognition of the useful contribution of these meetings, which had not only provided insights on the challenges and constraints experienced at field level, but also formulated a number of substantive comments and recommendations.[1]

1. Relationship between migratory movements and refugee protection (including the issue of smuggling and trafficking)

9. All delegations recognized the importance and complexity of the asylum-migration nexus, in view of the growth of mixed flows of persons in need of international protection and migrants, and the likelihood that this trend would intensify as one of the consequences of globalization. Many delegations noted the paucity of data available on migratory movements, the types and volume of mixed movements, as well as on their underlying motivation. Several delegations suggested that the causes were likely to be overlapping and included human rights violations or armed conflict, but also economic marginalization and poverty, environmental degradation, population pressures, poor governance and scarcity of decent work. There was consensus that the phenomenon of mixed movements affected developed and developing countries alike, but that developing countries required international support to improve their capacity to respond effectively.

10. To inform more effective responses, delegations agreed on the need for more detailed and coherent data and statistics on migratory movements and a number requested IOM to undertake a detailed study on the root causes underlying migration. One delegation suggested that regional organizations, such as the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE) and the Southern African Development Community (SADC) could also usefully undertake similar studies. Another delegation welcomed the launch of the MPRP programme and discussions at IOM Council meetings encompassing broader migration issues and needs.

11. Delegations unanimously condemned criminal activities of trafficking and smuggling of persons, while recognizing that refugees often had to resort, alongside migrants, to criminal rings to reach first countries of

[1] EC/GC/01/13; EC/GC/01/14

asylum or to move on to other locations. A number of delegations urged that asylum-seekers must be assured of access to asylum procedures and benefit from appropriate standards of treatment. There was wide recognition of the sovereign right of States to guard their borders and to take measures to stem trafficking and smuggling of people in view of the extreme suffering this causes, especially to women and children. A number of delegations made offers of technical support to boost reception capacity at points of entry. Some delegations, however, emphasized the need to view the phenomenon in the human rights context, not simply as a question of border or migration "control". One delegation suggested that the problem should be viewed as an aspect of migration management and take into account economic and labour demands, as well as human rights concerns.

12. It was widely acknowledged that legitimate measures to stem trafficking and smuggling should not be allowed to override States' commitments to refugee protection responsibilities - notably the principle of *non-refoulement* - to the respect of human rights in general, as well as migrants' rights. In response to a question from one delegation on the scope of *non-refoulement*, the Director of DIP referred to the background document on Article 33 of the 1951 Convention prepared for the Cambridge expert roundtable.[2] Several delegations suggested measures that could contribute to preventing resort to smugglers in the first place: providing opportunities for regular migration; operation of a proper, speedy and efficient asylum system in compliance with international norms; and speedy return of those found not to be in need of international protection.

13. Several delegations emphasized the need for more capacity-building in host States as well as closer cooperation in devising comprehensive and multifaceted responses amongst all stakeholders: governmental, intergovernmental and non-governmental. In this context, a number of delegations highlighted the need for closer dialogue between countries of origin, transit and destination, through appropriate policy orientations and follow-up action. These included the suggestion that development aid, trade and investment policies should be more sensitive to refugee and migration concerns and address the root causes of movement. Many delegations also recommended that measures be taken to encourage new accessions to and full implementation of the 1951 Convention and its 1967 Protocol, as well as to the United Nations Convention against Transnational Organized Crime and its Protocols (on trafficking of persons and smuggling of migrants), the 1990 Convention on Protection of All Migrant Workers and their Families, and relevant Conventions (notably nos. 97 and 143 of the International Labour Organization (ILO)).

14. Many delegations suggested that information campaigns both in countries of origin and receiving countries should play an important part in any comprehensive response and there were calls for NGO involvement. Such campaigns could provide a realistic appraisal of opportunities for orderly migratory movement; discourage irregular migration; warn of the dangers of smuggling and trafficking; combat xenophobia; and convey to the public at large in receiving States the positive side of migration and the assets both migrants and refugees represent to their host societies. One delegation suggested that secondary movements were unavoidable and asked for

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[2] See "Opinion on the scope and content of the principle of non-refoulement", Sir Elihu Lauterpacht CBE QC, Daniel Bethlehem, Barrister (June 2001)

understanding of the difficulties facing most host countries, particularly in protracted refugee situations. This delegation suggested that such movements required further examination, including an assessment as to whether resettlement could be an appropriate response. Another delegation argued that irregular movement of refugees who had already found protection should be discouraged by sending those refugees back to countries of first asylum. A number of delegations expressed concern at such an approach, in view of the heavy burden of hosting large numbers of refugees for protracted periods.

2. Interception and Protection Safeguards

15. Delegations expressed diverging views on interception as a tool to combat irregular migration. Some delegations saw such measures as a legitimate manifestation of States' sovereign right to guard their borders. Others acknowledged that interception was a necessary tool to deter smuggling, but stressed that it must be tempered with refugee protection safeguards. One delegation was opposed to interception measures, viewing them as an arbitrary form of burden-shifting and regretted that interception was increasingly being used to prevent the lodging of asylum applications. One delegation suggested that States must avoid a culture of blaming the "victims" of smuggling and trafficking. Some delegations recalled that, in accordance with the relevant international instruments, States should not penalize asylum-seekers and refugees who resort to smugglers to reach safety.

16. A number of delegations referred to the positive contribution of the regional meeting held in Ottawa, focusing on ways of incorporating refugee protection safeguards into interception measures. One delegation suggested that the discussions on interception initiated in Ottawa should be pursued with wider participation of countries from other regions. The suggestion that States that practise interception should incorporate safeguards for the protection of intercepted persons in need of international protection was widely supported. In this regard, there was broad support for the suggestion that UNHCR develop Guidelines on Safeguards for Interception Measures, incorporating appropriate protection safeguards and drawing on the conclusions and recommendations of the Ottawa meeting. UNHCR was also requested to initiate related training efforts for States. One delegation expressed concern that protection safeguards in interception could lead to new activities for UNHCR, for which additional resources should be identified. Another delegation suggested that an independent evaluation of existing interception programmes be carried out. On the issue of in-country processing, two delegations described their experiences, one of them noting that such processing might not readily lend itself to the issue of protection. Another delegation did not consider this processing as a complete alternative to interception, but as a means to make protection available. A delegation speaking on behalf of NGOs felt that in-country processing had no basis in the 1951 Convention.

3. Return of Persons not in Need of International Protection

17. There was broad agreement on the desirability of quick and effective return of persons found *not* to be in need of international protection. It was recognized, however, that such return must be orderly, safe, humane, dignified and sustainable. Several delegations recommended assistance to the receiving States or the individual. There was agreement that failure to

return persons not in need of international protection could undermine the integrity of the asylum regime (as well as of migration management systems). Some delegations enumerated benefits flowing from speedy return: easier reintegration; discouragement to smugglers and traffickers; and warning potential migrants that the asylum avenue is not open. Delegations from all regions highlighted the difficulties encountered in trying to return persons not in need of international protection, notably lack of cooperation by the individuals concerned or by the country of origin and difficulty in establishing the true country of origin owing to lack of documentation. One delegation suggested that in situations involving large numbers of refugees, a combination of measures was required: return, resettlement in a third country and assistance in the asylum country until large-scale return was possible.

18. Many delegations stressed the obligation of all States to accept back their own citizens and to cooperate with States requesting the readmission. Several delegations pointed out that denial of the right to return not only affected the credibility and efficiency of asylum systems but also amounted to denial of a basic human right and could ultimately contribute to situations of statelessness. Some delegations emphasized that countries of origin in the developing world require international assistance to make returns sustainable. Other delegations felt that return should not be conditioned upon international support. A number of delegations pointed out that the return of persons not in need of international protection should ideally be voluntary, but that States do have the sovereign right to deport them. Some delegations emphasized that such non-voluntary return must be carried out, at minimum, in safe, humane and dignified conditions.

19. Several delegations commended IOM for its programmes for the return of persons not in need of international protection and recommended the continuation of these programmes. One delegation pointed out that developing countries do not have the resources to finance such programmes through IOM. Another delegation requested IOM to develop a set of guidelines for ensuring that each migrant whom it returns does so voluntarily. Several delegations emphasized that UNHCR's involvement in return issues should be consistent with its mandate, should not be seen as sanctioning the return of persons who may be in need of international protection, and should be combined with an undertaking by States to provide resources to UNHCR for any such involvement. Two delegations questioned the legitimacy of UNHCR's involvement with rejected cases and urged caution.

4. Cooperation between UNHCR and IOM, as well as with States and other Stakeholders

20. Many delegations welcomed the closer cooperation between UNHCR and IOM and encouraged both organizations to pursue the lines set out in the joint paper. Some delegations, however, called for clearer terms of reference as to what this cooperation could embrace. Others expressed concern about the resource implications for UNHCR. Delegations encouraged UNHCR and IOM to include information activities as an integral part of their cooperation. Regarding IOM's commitment to examine the usefulness of establishing or strengthening regional and international mechanisms for managing migration movements, some delegations suggested that it would be preferable to focus on discussions on best practices at national and regional levels.

21. Delegations expressed strong support for the establishment of the proposed UNHCR/IOM Action Group on Asylum and Migration, provided the specific mandates of each organization were respected. Given the complexity of the migration/asylum nexus, it was suggested that the Action Group should also include governments, other interested organizations (such as the ILO and the Office of the United Nations High Commissioner for Human Rights (UNHCHR) and regional organizations) and NGOs. The Action Group's programme of work might include better data collection and analysis, research, formulation of policy options, promotion or adoption of international standards, training, and practical project initiatives in the field and at Headquarters level in Geneva. Reports on the work of the Action Group could be shared with ExCom and with the Council of IOM.

B. Asylum Processes (Fair and Efficient Procedures)

22. Introducing this item, the Deputy Director of DIP recalled that fair and efficient asylum procedures were an essential component of a comprehensive approach to composite flows; they were also key to full and inclusive application of the 1951 Convention and its 1967 Protocol, not least the principle of *non-refoulement*. The document on this subject (EC/GC/01/12) suggested that, in many cases, a single consolidated procedure to assess whether an asylum-seeker qualified for refugee status or other complementary protection might prove to be the most effective and expeditious means of identifying those in need of international protection. Its concluding section drew on examples of best State practice that built on existing ExCom conclusions on asylum procedures and established commonly agreed standards.

23. In a general discussion of this item, many delegations observed that access to well functioning, fair and efficient procedures was a condition *sine qua non* for respect of the principle of *non-refoulement*, the right to seek and enjoy asylum and full and inclusive application of the 1951 Convention. Such procedures could also contribute to combating their abuse. The adoption of national legislation was an important means to implement the Convention effectively, but such legislation should be in accordance with international standards. Several delegations from developing countries pointed to the need for more capacity-building to offset the very real constraints they faced. Some delegations offered help to set in place asylum procedures and assist them to function effectively.

1. Admissibility Procedures

24. Several delegations referred to the Budapest regional meeting's contribution to elucidating issues surrounding the "safe third country" notion and the impact of readmission agreements on countries consolidating their asylum systems. The meeting had brought to light concerns by such countries of the "burden-shifting" effect. A number of delegations from developing countries referred to the burdens they already bore in hosting refugees, particularly for protracted periods, and maintained that accepting back asylum-seekers and refugees must be accompanied by assistance measures, in a spirit of burden and responsibility sharing. Adequate safeguards were also vital with respect to application of the safe third country notion, notably the accepting State's consent to the transfer and examination of the asylum request. It was recognized that the decision to determine the

responsibility of States to review asylum claims was separate and distinct from the substantive examination of such claims. Many delegations also highlighted the value of multilateral or bilateral "Dublin-type" agreements to apportion responsibility for examining asylum claims, over unilateral use of the safe third country notion.

25. A number of delegations expressed concern at the impact of operation of the first country of asylum concept and requested guidance on its scope, particularly in situations where the first country of asylum was confronted with large numbers of refugees in protracted refugee situations. Many delegations emphasized the need for adequate safeguards in situations where refugees were returned to a first country of asylum. Such safeguards would contribute to avoiding situations of refugees "in orbit". It was also suggested that resettlement and local settlement might need to be considered when return to protracted situations was not viable. On the question of time limits for lodging applications, it was recognized that they should not be used to restrict access to procedures, but rather to determine whether non-compliance with the deadline affects the applicant's credibility.

2. Equitable and Expeditious Asylum Procedures

26. There was broad agreement on a number of issues. Delegations recognized the value of streamlined, fair and expeditious procedures that identify persons in need of international protection and those who are not. Many delegations reported that undocumented and uncooperative asylum-seekers made it difficult for them to implement procedures effectively. There were diverging views on the "safe country of origin" notion and whether appeals should have suspensive effect. Many delegations felt that the "safe country of origin" notion was useful, provided adequate safeguards could be built into its operation. For other delegations, the very notion amounted to exclusion of entire nationalities from protection under the 1951 Convention or possibly a geographical limitation in violation thereof. While some delegations argued that appeals should not suspend decisions to deport cases in certain circumstances, one delegation representing NGOs argued that suspensive effect should be guaranteed until a final decision on the asylum claim.

27. There was general agreement that all asylum-seekers should have access to procedures to adjudicate their claims. Key features should include access to advice on procedures, personal interviews (by specialized staff when justified by the asylum-seeker's vulnerability and specific circumstances), counselling (notably by NGOs), legal aid, the right to appeal negative decisions and the right to be informed of key decisions and stages in the procedure. A decision on asylum should be reasoned. Accelerated procedures were useful to resolve manifestly *well-founded* cases as well as those where abuse of procedures or an obvious lack of foundation for a claim was manifest. Asylum-seekers had a responsibility to cooperate with the authorities. Lack of documentation, however, did not in itself render a claim abusive. The issue of lack of cooperation and lack of documentation should ideally be handled as separate issues. In addition, a mere application for asylum should not *per se* be considered grounds for detention.

3. Other Issues

28. Many delegations highlighted the importance of training border officials and those at other points of entry on standards and procedures for reception at the border. One delegation believed that the participation of NGOs and intergovernmental organizations at the border could be useful to shoulder national efforts. A number of delegations offered technical and other support, and a representative of the International Association of Refugee Law Judges informed delegations of its training programme for appellate-level judges. Some delegations also described their own procedures for making special provisions for asylum-seekers with special needs, notably female asylum-seekers who needed to be attended by female staff, particularly in the case of trauma or sexual violence. Women should also be allowed to lodge an application in their own right and have it considered on an individual basis, including if accompanied by a man. One delegation suggested that the claims of the growing number of unaccompanied or separated minors seeking asylum need to be examined "outside the box", giving due consideration to whether the best interest of the child could indeed always be preserved through asylum. In terms of special needs, minors may need to be provided upon arrival with a guardian and receive psychosocial support. The single asylum procedure advocated by UNHCR was welcomed as a potentially effective, rapid means for providing international protection expeditiously to all those who need it. This procedure deserved further examination.

4. Conclusions

29. There was broad agreement on a number of issues, notably the need for basic common standards for refugee status determination procedures derived from the framework of international refugee law. Delegations also acknowledged the need for flexibility, so as to take account of national and regional specificities and domestic legal and administrative systems. States that have not yet done so were encouraged to establish fair and efficient asylum procedures. In this context, the compilation of best practice contained in document EC/GC/01/12 (notably paragraph 50) was welcomed as a useful basis for guidance. It was suggested that the Executive Committee could usefully undertake informal consultations to discuss the process of developing basic guiding principles to build on ExCom Conclusions 8 and 20, possibly in the form of a Conclusion on Asylum Procedures, and build on UNHCR's paper in greater detail. NGOs requested an opportunity to participate in such discussions, even if they are taken up within the Executive Committee. The Chairman proposed to undertake informal discussions as to whether or not to take up the question of an ExCom conclusion and, if so, the timing, participation and framework for the related consultations.

V. CHAIRMAN'S SUMMARY

30. At the end of the discussions, the Chairman provided a brief oral summary highlighting some of the key issues and conclusions emerging from the discussions. A more complete written summary was made available following the meeting.

REPORT OF THE THIRD MEETING IN THE THIRD TRACK*
(27-28 September 2001)

I. INTRODUCTION

1. The Rapporteur of the Executive Committee, Mr. Haiko Alfeld (South Africa), chaired the meeting. In brief opening remarks, he regretted that it had not proved possible for a refugee to attend the meeting and noted that bringing in the refugee voice to the Global Consultations remained an enormous challenge. The Chairman recalled that, since the previous "third track" meeting in June, an additional important regional meeting had been held in Cairo (3-5 July 2001), in addition to meetings in the framework of the "second track" of the Global Consultations process in Cambridge (9-10 July 2001) and San Remo (6-8 September 2001). The recently concluded Preparatory Session for the Ministerial Meeting of States Parties (20-21 September 2001) augured well for the December gathering of Ministers. The Chairman expressed his concern that participants had not been able to afford more focused attention to follow-up, but noted that two documents prepared by the Secretariat (EC/51/SC/CRP.12, Annex 2 and EG/GC/01/20) focusing on potential follow-up activities should form the basis for further reflection and consultation in future.

2. The Deputy High Commissioner then delivered a brief welcoming address.

II. ADOPTION OF THE DRAFT REPORT OF THE SECOND MEETING

3. The Chairman presented for approval the draft report of the second meeting in the third track of the Global Consultations (EC/GC/01/15). One delegation proposed an amendment to paragraph 29 of the document, to make clear that further consultations would be needed on the feasibility of an Executive Committee conclusion on asylum procedures. With this modification, the report was adopted.

III. ADOPTION OF THE AGENDA

4. The agenda (EC/GC/01/16) was adopted.

IV. PROTECTION OF REFUGEES IN THE CONTEXT OF INDIVIDUAL ASYLUM SYSTEMS

5. The Director of the Department of International Protection (DIP) provided a brief update on progress in all tracks of the Global Consultations process as well as some preliminary remarks on the agenda items now under consideration.

A. Reception of Asylum-Seekers, including Standards of Treatment

6. The Chief of DIP's Protection Policy and Legal Advice Section (PPLA) section introduced the background note on reception (EC/GC/01/17), intended to draw out elements for a possible common framework for the reception of asylum-seekers, which could be adopted in the form of an Executive Committee conclusion. He hoped that the discussion would also allow UNHCR to finalize a set of general guidelines on core reception standards, which States could

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* Adopted on 22 May 2002

then apply or adapt to their particular circumstances. To this end, the background note included in annex a compilation of relevant international standards and best practices.

7. There was broad agreement that the topic was appropriate for consideration within the Global Consultations and that the background note provided a useful basis for discussion. While most of the discussions centred on reception conditions affecting individual asylum-seekers, one delegation recalled that reception in camps also deserved consideration, particularly in view of the negative impact arising, for example, from the treatment of children and education. Virtually all delegations recognized that reception conditions have an important human rights dimension, and that reception standards for asylum-seekers should indeed conform to social, cultural and economic rights.

8. Some delegations considered that the regime proposed in the background note in its entirety was balanced and should have a global application; others felt that, given conditions in many host countries in the developing world, the proposed regime was overly ambitious. Those adopting the latter position felt that reception arrangements were necessarily linked to the socio-economic situation and level of development in host countries and argued in favour of flexibility. One delegation added that, in addition to host country capacity, the size of an influx or the actual refugee population was also a limiting factor, albeit that international commitments need to be respected. A number of delegations suggested that reception arrangements must also take into account the length of asylum procedures. Accordingly, it was recognized that complete harmonization of reception conditions among countries and across regions was not feasible.

9. As specific content of a regime for the reception of asylum-seekers, delegations identified the following essential elements; stay in dignity; freedom of movement, respect for family life; access to education; access to health; information on procedure and rights in a language they can understand; swift and fair processing of cases as an effective means to address some of the more difficult conditions of reception; and appropriate arrangements to meet special vulnerabilities. A number of delegations emphasized that reception conditions should include the creation of a climate receptive to asylum-seekers, free of xenophobia. Some delegations also felt that asylum-seekers should have access to gainful employment, whereas others observed that this would be difficult to provide. On the specific question of detention of asylum-seekers, there was strong support for the position that detention should be an exceptional response, and that conditions of detention must be humane and respect basic values. Several delegations expressed concern over the detention of minors. One delegation insisted that detention should not be used to deter arrivals. Others felt that detention might be justified if a person poses a threat to national security or public order, if there is a need to verify the identity of an individual or if there are obligations to restrict movement stemming from other instruments (such as the 1999 Dublin Convention), but that detention should be subject to a process of judicial or administrative review.

10. More generally, there was a divergence of views between those who felt that reception conditions should also take into account risks of abuse of the system and the need to prevent problems such as secondary movements and forum shopping, recognizing that relatively favourable reception conditions could create a pull factor, and others who felt that the link between reception conditions and abuse is not clear and that ethics and rights must be the prevailing considerations. One delegation recalled that abuse exists in any

system and queried whether a State could, in fact, go below legitimate minimum standards of treatment in seeking to prevent it. Another delegation pointed out that migrants have rights that must be taken into account in any discussion of reception standards. One delegation recalled that different standards should apply to asylum-seekers who immediately lodge an application for refugee status upon arrival in the countries of asylum and those who apply only once arrested.

11. The importance of international solidarity and burden-sharing to increase the protection capacity of developing host States to meet international standards for the reception of asylum-seekers was emphasized by a number of delegations. One delegation, seconded by another, suggested the creation of an independent fund managed by UNHCR for the purpose of assisting developing countries, both financially and technically, to bring their reception facilities in line with internationally accepted standards.

12. There was broad agreement that UNHCR guidelines in this area would be useful, as would an Executive Committee conclusion on this topic, but one delegation suggested that the UNHCR guidelines be finalized *following* the adoption of a Conclusion. Several delegations emphasized the need to draft both documents with care. Regarding the possible content of the Conclusion, a number of delegations made specific comments on paragraph 25 of the background note, which contains a range of considerations of relevance to asylum policies. Two delegations suggested that the paragraph be expanded to cover other groups with special needs, such as victims of trauma or torture. A number of delegations suggested that particular emphasis be placed on creating a climate receptive to asylum-seekers, to avoid racism and xenophobia. A number of delegations suggested that regional instruments, such as the 1969 OAU Convention, relevant declarations, as well as the 1965 Convention on the Elimination of all Forms of Racial Discrimination, should be drawn upon in finalizing the guidelines.

B. Complementary Forms of Protection

13. The Deputy Director of DIP introduced the background note (EC/GC/01/18) on this topic, recalling that it supplemented a recent paper on this subject,[3] discussed at the eighteenth meeting of the Standing Committee in July 2000. He observed that complementary protection is broadly accepted as a necessary response to the protection needs of those who would not necessarily fall within the 1951 Convention refugee definition, but are nevertheless commonly regarded as being in need of international protection. There are, however, significant variations in State practice. Reaching clearer, common understandings on the appropriate use of complementary forms of protection would help ensure that their use is not inadvertently applied to restrict the application of the 1951 Convention. In view of the interest expressed by a number of delegations, the background note included a section on procedure, notably the advantages of a single, comprehensive procedure to determine protection needs. The note suggested that harmonization may be encouraged through the development of an Executive Committee conclusion on the issue and included language (see paragraph 11) which could serve as a starting point for such development.

14. A number of delegations welcomed the inclusion of this topic on the Global Consultations agenda. One acknowledged that thinking in this area had progressed substantially since the Standing Committee considered it in 2000. Many delegations expressed support for UNHCR's background note, including the

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[3] EC/50/SC/CRP.18

references to best State practice. Delegations broadly agreed that complementary forms of protection are a useful complement to the international protection regime based on the 1951 Convention and its 1967 Protocol, but should not be used to compromise full application of the refugee definition contained in these instruments. In this context, many delegations asserted that complementary forms of protection should not dilute or weaken the refugee definition or derogate from the rights of those entitled to protection under the Convention and Protocol. The continued centrality of both instruments was repeatedly recognized. One delegation cautioned that its support for complementary forms of protection should not be seen as an endorsement for the restrictive interpretation of the 1951 Convention in a number of States.

15. Many delegations expressly recognized that complementary forms of protection often stem from human rights considerations and referred specifically, *inter alia*, to the 1984 United Nations Convention against Torture and the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms. On the question of who should benefit from complementary forms of protection, both instruments were referred to as providing valuable benchmarks. Delegations agreed that it is necessary to distinguish complementary forms of protection from temporary protection applicable in mass influx situations. One delegation observed that, in its domestic practice, temporary protection is applied in individual circumstances and is not linked to mass influx. Regarding conditions for the cessation of complementary protection, one delegation suggested that these should be akin to those in the Convention's cessation clauses, but should be clearly distinguished from those that apply to lifting of temporary protection. Another delegation highlighted the necessity to look at the relevance of the exclusion clauses in determining whether to grant complementary protection.

16. Delegations were in broad agreement on the need for greater coherence and some degree of formalization of the various approaches to complementary forms of protection, as well as on the need for clearer definitions and greater consistency. In this context, a number of delegations referred to a recent initiative in the European Union (EU) to develop minimum standards for complementary (or "subsidiary") forms of protection. Regarding standards of treatment, many delegations referred to *non-refoulement* as a starting point. There was broad recognition that the standards of treatment for beneficiaries of complementary forms of protection should be identical or as close as possible to those offered to recognized refugees. One delegation suggested that legal status with documentation should be provided to those receiving complementary protection. Another delegation noted that persons benefiting from complementary protection often only have short-term permits.

17. On procedural questions, there was widespread support for the background note's recommendation that States endeavour to establish a single asylum procedure in which there is first an examination of the Convention grounds for the recognition of refugee status before proceeding to examine possible grounds for the grant of complementary protection. A number of States already implementing a single procedure reported that it had proved to be humane, speedy, efficient and provided increased legal certainty for the applicant concerned. A number of delegations recalled that the Council of Europe had also recommended adoption of a single procedure and that the EU is looking into this possibility as well.

18. There was broad support for the suggestion to begin consultations on a conclusion of the Executive Committee focusing on complementary forms of

protection, on the basis of the concluding observations of UNHCR's background note.

C. Strengthening Protection Capacities in Host Countries

19. The Chief of DIP's PPLA Section introduced the background note (EC/GC/01/19) on strengthening protection capacities in host countries, which sought to define the objectives pursued and activities being carried out. Annex I set out the core components of a strategy to strengthen host-country protection capacities, while Annex II described a number of concrete initiatives and best practices. It was suggested that the guiding principles set out in paragraph 15 of the paper might be reflected in an Executive Committee conclusion in order to constitute a framework for future action. The Ambassador of Egypt and the focal point for non-governmental organisations (NGO) for the Global Consultations presented brief oral reports on the regional meeting held in Cairo on 3-5 July 2001, which had focused on strengthening the protection capacity of countries of asylum in Central Asia, North Africa and the Middle East[4]. The participants again recognized the useful contribution of the regional meetings to the Global Consultations process.

20. All delegations recognized the importance of strengthening the protection capacity of host States as a condition to implement effectively international protection standards. Delegations broadly supported the general thrust of the background paper, particularly the proposed framework to strengthen protection capacities. Some particularly welcomed the fostering of "protection networks" in civil society and the emphasis on promoting self-reliance for refugees as well as the development of capacities of refugee communities. Almost all delegations also recognized the usefulness of the concrete examples and best practices it contained.

21. Many delegations suggested that strengthening protection capacities is conditioned upon the availability of resources and must therefore be framed in the broader context of international cooperation, solidarity and burden-sharing and entail adequate funding, *inter alia*, to UNHCR, to build protection capacity in host countries. A number of delegations recommended that capacity-building initiatives also focus on countries of origin, to promote respect for human rights, contribute to eradicating the root causes of refugee flows and boost the sustainability of voluntary repatriation. In recognizing the importance of strengthening protection capacities, however, some delegations argued that limited capacity should not reduce the possibility for refugees to seek and be granted asylum.

22. There was clear recognition that partnerships are an important ingredient of any capacity-building efforts. A number of delegations underlined the need for a participatory and inclusive approach. Some suggested that regional dialogues and approaches are an important element of building protection capacities. A number of delegations also recalled the key role played by NGOs in this area, both as agents of capacity-building as well as beneficiaries of these efforts. In this regard, there was a suggestion to accord NGOs legal status, where it does not exist and, if required, fully integrate them in capacity-building activities.

23. Delegations broadly acknowledged that strengthening protection capacities is a complex process that needs to take account of the social, cultural and economic conditions in the country. Delegations suggested that,

[4] See EC/GC/01/21

to be effective, capacity-building also requires sustained support, implementation of activities that are concrete and measurable, as well as evaluation and follow-up. One delegation stressed that the aim should be to support the creation of viable structures. There was broad recognition of the need for efficient and effective coordination among the various partners to devise viable and sustained protection structures. UNHCR was called upon to assume a coordinating role in this area. Furthermore, there was broad recognition that strengthening resettlement capacity is an important element of building protection capacities.

24. Beyond capacity-building *strictu sensu*, some States stressed the need to recognize the positive impact that refugees can have on their host societies and made a call for more resources to be made available for education and vocational training, to encourage productive activities by refugees, particularly those dependent on international assistance, and thereby limit dependency. UNHCR and its partners were encouraged to devise programmes that build upon refugee capacities, to encourage empowerment and self-reliance, while laying the ground for durable solutions. A number of delegations also supported the view that refugee issues should be factored into the development agenda of States, development agencies and donor countries. Delegations also broadly recognized the importance of a receptive host environment, to foster a positive and respectful attitude towards refugees.

25. A number of points of consensus on follow-up emerged from the discussion (see also EC/GC/02/3). Most delegations felt it would be premature to have the guiding principles framed in an Executive Committee conclusion and that more opportunities for dialogue would be needed. It was suggested that UNHCR nevertheless amend and broaden the guiding principles and framework set out in its background note, in light of the discussions. UNHCR could also usefully develop a manual on protection capacity-building and maintain an updated catalogue of initiatives and activities in this area, drawing on Annex II of the background note, to be placed on UNHCR's website. There was broad recognition that NGOs, particularly local NGOs, have a role to play in strengthening protection capacities. It was suggested that funding agreements with NGOs, but also developing countries, stipulate that programmes aimed at strengthening protection capacities should be coordinated with UNHCR. There was also widespread recognition that refugees have capacities that can and should be tapped, and that empowered and self-reliant refugees are better prepared to work towards finding durable solutions.

26. UNHCR should identify where activities to strengthen protection capacities are most needed, establish priorities among the various activities, and identify refugee-hosting countries requiring support. In this context, UNHCR should facilitate the pairing of needs with concrete offers of support by States, intergovernmental organizations, NGOs, the private sector and others. Depending on the level of interest, UNHCR might convene regional/sub-regional workshops, involving States and NGOs, with the purpose of devising and implementing specific country or regional strategies to strengthen capacity. The importance of a receptive host environment to foster a positive and respectful attitude towards refugees was broadly recognized. On the question of resources, UNHCR should explore further opportunities, *inter alia*, with the private sector for resource-mobilization to build protection capacity, as well as possibilities for the donor community to allocate a portion of development funds to programmes benefiting both refugees and the local populations that host them. In addition, States and NGOs could usefully examine the idea of expanding "twinning" projects, whereby officials from national administrations are made available to assist

other States with less developed protection structures to build up expertise in different areas. Finally, strengthening resettlement capacity was recognized as an important element of capacity building.

V. CHAIRMAN'S SUMMARY

27. At the end of the discussions, the Chairman provided a brief oral summary highlighting some of the key issues and conclusions emerging from the discussions. A more complete written summary was made available in November 2001. In concluding the meeting (the last under his chairmanship), the Chairman stressed that the amount of substantive preparation for the discussions had been impressive thanks to the excellent work of DIP supported by the Secretariat. He observed that the third track of the Global Consultations had generated a vigorous dialogue with broad participation, and had provided a platform for frank and constructive interaction and partnership between UNHCR, States and civil society, allowing more meaningful reflection and analysis than was normally possible in the framework of the Executive Committee. The process was resulting in renewed, invigorated recommitment to refugee protection and more collective ownership of refugee protection by States. He also looked forward to seeing its various outcomes translated into an Agenda for Protection, and urged further consultations towards this goal.

REPORT OF THE FOURTH MEETING IN THE THIRD TRACK*
(22-24 May 2002)

I. INTRODUCTION

1. The Rapporteur of the Executive Committee, Mr. Hajime Kishimori (Japan), chaired the meeting. In brief opening remarks, he welcomed the Assistant United Nations High Commissioner for Refugees and the Director of UNHCR's Department of International Protection (DIP). The Chairman encouraged delegations to be inter-active and innovative in their interventions. One delegation raised the question of an appropriate framework to follow up on the Agenda for Protection and made some suggestions on a possible ad hoc forum. Following consultations with the Chairman, the Director of DIP suggested that this proposal be discussed at the twenty-fourth meeting of the Standing Committee in June 2002, at which the Agenda for Protection would be examined in detail.

II. ADOPTION OF THE AGENDA

2. The agenda (EC/GC/02/1) was adopted.

III. ADOPTION OF THE DRAFT REPORT OF THE THIRD MEETING

3. The Chairman presented for approval the draft report of the third meeting in the third track of the Global Consultations (EC/GC/02/2). The report was adopted.

IV. THE SEARCH FOR PROTECTION-BASED SOLUTIONS

4. The Assistant High Commissioner delivered a brief welcoming address in which he stressed that UNHCR counts on the support of all delegations, not only to bring the Global Consultations process to a successful conclusion, but also to ensure that UNHCR has the resources and, equally important, their commitment to implement the AFP fully in the coming years.

5. The Director of DIP made preliminary remarks on all topics under consideration. Regarding durable solutions, she conveyed UNHCR's concern about the protracted nature of a number of refugee situations and the need to have a more coherent approach to the search for durable solutions that integrates voluntary repatriation, local integration and resettlement more directly. The background documentation, *inter alia*, calls for renewed importance to be given to local integration as a component of any comprehensive durable solutions strategy. It also seeks to promote self-reliance, whatever the durable solution may ultimately be, as being in the interest of all concerned. Regarding the protection of refugee women and refugee children, the Director observed that their problems do not suffer from a dearth of written analysis or guidelines. Instead, the protection of refugee women and children has suffered from a lack of capacity to implement the relevant guidelines and, to some extent, from an uneven commitment on the part of all actors to translate the theory into practice at all stages of the response to the cycle of displacement. She encouraged delegations to comment on the many recommendations for action contained in the respective notes, with a view to rounding out the Agenda for Protection.

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* Adopted on 25 June 2002

A. Voluntary Repatriation

6. The Chief of DIP's Protection Policy and Legal Advice Section (PPLA) introduced the background note on voluntary repatriation (EC/GC/02/5), noting that it was the first time in many years that UNHCR had submitted a comprehensive note on this durable solution. He pointed out that the note broke new ground in three areas and encouraged delegations to focus on these in their interventions. Firstly, it elucidates the meaning of the "safety" element of the concept of "return in safety and with dignity", by describing its core components (physical safety, legal safety and material safety) and UNHCR's role in relation to each. Secondly, on the specific component of *legal safety*, Annex II of the note contains a brief compilation of recommendations for addressing property-related issues in the context of return, which might also serve as a blueprint for the development of analogous standards in other legal domains (such as amnesties and documentation). He requested delegations to consider whether an Executive Committee (ExCom) Conclusion might usefully address the different legal safety issues, while complementing ExCom Conclusion No. 40 (XXXVI) of 1985. Thirdly, the note recalls that there are a number of forgotten and protracted refugee situations. He suggested that UNHCR could play a more active, catalytic role in order to seize opportunities for voluntary repatriation, in line with the initiative launched by the Africa Bureau in December 2001, during its informal consultations with African Ministers. In addition, he encouraged delegations to outline what more could be done to generate the political will necessary to unlock some of these situations.

7. There was broad support for the tenor, principles and recommendations of the background note. Many delegations repeatedly emphasized the importance of ensuring the voluntarily nature of repatriation and the corresponding duty of countries of origin to create conditions conducive to the return and reintegration of former refugees. Mention was made, in this context, of the need to tackle root causes. A number of delegations also observed that repatriation benefits countries of origin in the form of human resources, who can contribute valuable intellectual, cultural, economic, political and social capacities to their home countries. Attention was drawn to UNHCR's role in providing timely and objective information on conditions in the home country (to enable a free and informed choice); in verifying the voluntary nature of any movement; and in monitoring safety following return. Conditions that must be met in order for repatriation to be truly voluntary included: disassociating repatriation from political considerations; giving access to full and objective information on conditions in the country of origin; ensuring freedom from physical or psychological pressure - including avoiding reductions of assistance in the host country; and achieving real, meaningful and sustained change in the countries of origin, so as to permit return in safety and dignity. One delegation observed, however, that the note should have commented on the role of the International Organization for Migration (IOM) and inter-action between UNHCR and IOM on voluntary repatriation. Another delegation regretted that the note had not dealt with the issue of the return of persons found not to be in need of international protection.

8. While insisting on the voluntary nature of repatriation, some delegations considered that repatriation could not always take place in optimal conditions. One delegation insisted that repatriation movements that are less than voluntary may, in fact, amount to a violation of the principle of *non-refoulement*. A number of delegations pointed out that premature movements could further exacerbate difficult conditions in the country of origin. One delegation affirmed that the requirement of "voluntariness"

should not serve as an excuse for refugees to remain longer or permanently in the host country, once the prevailing situation in the country of origin had returned to normal. Another delegation cautioned that voluntary repatriation of some or even large numbers of refugees should not automatically lead to a general cessation of refugee status. In this regard, a number of delegations stressed that refugees who continue to have a well-founded fear of persecution, despite changes in the country of origin, should continue to receive international protection and benefit from other durable solutions, such as local integration or resettlement.

9. Most delegations observed that, even if there is no formal hierarchy of durable solutions, voluntary repatriation is the solution sought by the largest numbers of refugees and should therefore be preferred. Others stressed that, even if voluntary repatriation is the preferred solution for most refugees, access to resettlement and local integration, particularly in protracted situations, should be made available as part of a comprehensive durable solutions strategy. In this regard, one delegation encouraged UNHCR to compile statistical data on the repatriation of refugees who had enjoyed one of the other two durable solutions, to assist in evaluating the benefits of a holistic and non-hierarchical approach to durable solutions. A number of delegations acknowledged the challenges and complexities involved in making voluntary repatriation both feasible and sustainable.

10. A number of delegations observed that UNHCR plays an important role in ensuring that peace processes take due account of the right to return, while also fulfilling a catalytic role, in cooperation with partners, in assisting countries of origin to create an environment conducive to repatriation. Regarding planning for repatriation, many delegations stressed the need to give refugees, especially refugee women, an active voice in planning for both repatriation and reintegration-related activities. It was also recommended that such planning take due account of the needs of the most vulnerable, including unaccompanied and separated children, the disabled, the elderly, as well as single-headed households.

11. There was general support for various aspects of UNHCR's role in repatriation operations, as described in the paper. Delegations attached importance to UNHCR working with countries of asylum and origin to set in place an acceptable framework for voluntary repatriation, although views differed concerning the extent of its involvement in the reintegration phase. Some delegations felt that UNHCR's involvement in a number of reintegration activities, notably shelter and reconciliation, goes beyond its core mandate. They therefore stressed the importance of partnerships amongst UNHCR, States, development partners, NGOs and the international community at large, to address more effectively the transition from humanitarian aid to development cooperation. These delegations therefore encouraged UNHCR to play a catalytic role, while developing hand-over and exit strategies, particularly in light of the Office's resource constraints and the comparative advantages and respective mandates of other partners. One delegation observed that the involvement of military organizations in humanitarian operations should be limited to fostering security for the returnees and civilian population.

12. Stressing the importance of burden and responsibility-sharing, a number of delegations called for generous international support to rehabilitate refugee-impacted areas in host countries, and to spearhead a community-based approach to rehabilitation assistance in communities affected by return (encompassing returnees, internally displaced persons (IDPs), as well as the local communities). Programmes to re-build basic economic and social infrastructure and to support national institutions, local NGOs and civil

society structures, not only boost employment opportunities and increase absorption capacity in returnee areas, but are also necessary for reintegration and beneficial for reconciliation.

13. A number of delegations also focused on some of the issues covered in UNHCR's background note, notably the concept of safety in the context of voluntary repatriation - particularly "legal safety" (including the issue of property restitution) - and the broader issue of protracted refugee situations. While most delegations supported the safety concept described in the note (defined as a combination of physical, legal and material safety), one delegation observed that many conditions can only be met gradually and that all of them need not necessarily be met as a pre-condition to voluntary repatriation. Another delegation considered that enjoyment of property rights could not be made a formal prerequisite for voluntary repatriation. A different delegation concurred with the note that such conditions must be in place in order to *promote* voluntary repatriation; otherwise, voluntary repatriation can only be *facilitated*. There was broad support for UNHCR's suggestion that ExCom give more detailed consideration to legal safety, including property-related issues in the context of repatriation, and for the standards relating to property set out in the note (See Annex II of EC/GC/02/5). One delegation, however, considered these to be too detailed, whereas another proposed that the issue of compensation in case of non-return or loss of property be added, since restitution would not be feasible in all circumstances.

14. On the issue of protracted refugee situations, most delegations stressed that refugees should not be left to languish for long periods in refugee camps, awaiting voluntary repatriation with no hope of access to other durable solutions. In this regard, it was emphasized that international support to host States should not decline over time. Many delegations also agreed that refugees should at least have opportunities for building self-reliance in cases where a satisfactory durable solution was not immediately in sight. They valued self-reliance strategies in host countries as a means to lay the ground for durable solutions - particularly voluntary repatriation - and encouraged host countries and the international community to provide an enabling environment, including adequate resources. One delegation stressed that early and effective responses to mass influxes might help to prevent such situations from becoming protracted. Another delegation observed that protracted refugee situations have a high cost for the individuals concerned and contribute to secondary movements. A number of delegations encouraged UNHCR to complete a survey of all protracted refugee situations in the world, with a view to developing an action plan for their resolution. UNHCR was also encouraged to work together with all interested parties to propose "package deals", involving various kinds of burden-sharing arrangements and all three types of durable solutions, wherever appropriate.

15. There was broad support for UNHCR's plan to update its 1996 *Handbook on Voluntary Repatriation*. One delegation suggested that voluntary repatriation was one area where further legal standard setting might be needed to fill gaps in the 1951 Convention framework. Another delegation suggested that, in updating its operational framework on reintegration, UNHCR should prepare a short paper on the key lessons that had emerged from its field-testing. One delegation also encouraged UNHCR to develop measures for monitoring voluntary repatriation operations, based on models from previous repatriation operations. In this regard, a number of delegations expressed the hope that UNHCR would evaluate the experience gained in Afghanistan and draw lessons from the operation.

B. Resettlement

16. The Chief of DIP's Resettlement and Special Cases Section introduced the background note (EC/GC/02/7), briefly describing the complementary benefits of resettlement and highlighting, in particular, the need for an expansion in the number of resettlement places and an increase in the number of resettlement countries. She observed that there are more refugees in need of resettlement today than there are available places or resources. As outlined in the note, resettlement is no longer the solution of last resort, but rather comes into play to meet the requirements of refugees with particular protection needs and can be an effective durable solution where both voluntary repatriation and local integration are unavailable. The Chief described steps being taken by UNHCR to address the issues of limited resources and staff, as well as to improve field-level management (in particular to combat fraud). She also highlighted the difficulty of resettling refugees of certain nationalities, especially in the post-September 11 security environment, as well as the need to provide access to resettlement opportunities for *prima facie* refugees.

17. The Ambassador of Norway, as host to the Nordic Regional Resettlement Meeting [5], presented the report and conclusions of the meeting [6], referring in particular to the recommendation to expand resettlement, in order to ensure that it can operate as both a protection and durable solutions tool. He also recommended that resettlement remain a protection tool, and that its use as a migration mechanism be discouraged. The Chairman of the Working Group on Resettlement briefly summarized a meeting of the Group held in Geneva, on 21 March 2002, as follow-up to the first Global Consultations third track meeting on mass influx situations. Part of this meeting looked at the question of more harmonized criteria and flexibility in the application of resettlement in such situations. He reported that the meeting had focused not only on the resettlement selection process, but also on activities before and after resettlement processing, in order to improve its overall efficiency. On the question of flexibility, he noted that, whereas many countries already have the legal capacity to accept persons with protection needs, without necessarily fulfilling full refugee status criteria, other countries have legal restrictions. Identifying specific groups or locally specific criteria was considered possible and, if this was achieved, streamlined documentation could be instituted to process those identified cases.

18. All delegations supported the call to increase the number of resettlement countries, noting the increasing gap between resettlement demand and supply. Some delegations felt that offering solutions within affected regions would be beneficial and gave encouragement to the emerging resettlement countries in Africa and Latin America. Several traditional resettlement countries offered their assistance to these countries to build capacity. Other delegations encouraged those with sufficient levels of resources and adequate infrastructure to become engaged in resettlement, such as members of the European Union and the G8 States. One State announced its intention to institute a resettlement programme. Several delegations advocated for a lack of local integration prospects to be taken into account as an important part of any new resettlement quotas.

19. There were many calls for resettlement to be seen as part of comprehensive protection strategies, and as complementary to the other durable solutions. This should include working to relieve pressures on

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[5] Oslo, 6-7 November 2001
[6] EC/GC/02/4

States hosting large numbers of refugees. One delegation cautioned, however, that resettlement must not be seen as an alternative to establishing the conditions for voluntary repatriation but as a complement to the other two durable solutions. A few delegations considered that resettlement was not an appropriate response during the initial stages of a mass influx or emerging refugee situations. Rather, they argued that it should come into play once the refugee situation has stabilized. A number of States encouraged UNHCR to inform asylum countries of the role of resettlement in a particular situation and to alert them to potential resettlement needs.

20. Many delegations viewed resettlement as tangible evidence of international solidarity and an effective means of burden-sharing with countries of first asylum. In particular, there were several specific requests for an increase in the number of places to be made available for refugees who are not able to return home voluntarily. One delegation also encouraged States to make available resettlement places to find solutions for residual refugee groups remaining after large-scale voluntary repatriation.

21. Several delegations appealed to resettlement countries to eliminate the perceived double standard, whereby these countries apply strict criteria for selection of resettlement cases whereas many refugee-hosting countries have no choice but to receive *prima facie* refugees, who remain for protracted periods. Another delegation considered that perceived restrictive criteria for resettlement forced refugees to search for solutions elsewhere, contributing to secondary movements. The background note also highlighted the link between unequal access to resettlement within regions and secondary movements. A number of delegations also strongly denounced the so-called "pick-and-choose" approach to resettlement (otherwise known as selection of cases on the basis of integration potential), although this approach has been on the decline in recent years. In response, some resettlement countries refuted that they had been engaging in such practices. One delegation felt that a focus on integration potential might be necessary to maintain public support for resettlement programmes, and another felt it was legitimate to take this factor into account, among others.

22. Many delegations welcomed UNHCR's efforts to develop mechanisms to minimize the risks of fraud in resettlement processing and improve management controls. A number of delegations also encouraged accelerated and streamlined resettlement processing, while stressing that the 1951 Convention's exclusion clauses (Article 1 F) needed to be applied, when necessary. Many delegations highlighted the value of early and effective registration to identify protection needs and potential candidates for resettlement cases. Some also called for more harmonized procedures. A number of delegations also encouraged UNHCR to allocate resources from its Annual Programme Budget to resettlement activities. One delegation observed that the under-filling of resettlement places could be corrected if States, UNHCR and NGOs worked together to identify and address inefficiencies in the system. Several delegations looked forward to the completion of the *Handbook on Reception and Integration*, which is intended to help States improve their integration programmes for resettled refugees.

C. Local Integration

23. The Head of UNHCR's Evaluation and Policy Analysis Unit introduced the background note on local integration (EC/GC/02/6), jointly prepared with DIP, recalling that the international regime for refugee protection developed in 1951 recognized the potential for refugee situations to be resolved by means of local integration. In practice, however, this solution has been relatively

neglected. The background note therefore stressed that a comprehensive durable solutions strategy, which recognizes the value of local integration and self-reliance, had the greatest likelihood of success. The Director of UNHCR's Regional Bureau for Africa reported on the informal ministerial-level consultations on "New Approaches and Partnerships for Protection and Solutions for Africa" (Geneva, 14 December 2001). The consultations, *inter alia*, had drawn attention to protracted refugee situations in Africa and sought to revive initiatives for local integration; a policy which had formerly been a tradition on the African continent.

24. Many delegations welcomed the renewed attention being given to local integration as a durable solution, as well as the strategy of refugee self-reliance. On the latter, most delegations underlined the importance of self-reliance as a precursor to any of the three durable solutions. Several delegations recognized that the pursuit of a self-reliance strategies for refugees did not preclude voluntary repatriation. Some delegations stressed that, on the contrary, self-reliant refugees would be better equipped to return to and reintegrate in their countries of origin, when conditions permitted. A number also referred to the importance of self-reliance for the self-esteem of refugees, and many delegations underlined the negative impact of protracted stays in camp settings, including the fostering of dependency, insecurity and increased protection problems. To pursue self-reliance strategies effectively, the need to involve refugees and host communities in planning and programme design, and to address the specific circumstances of refugee women and children, was recalled repeatedly. There was strong support for building further on the steps and measures recommended by UNHCR during the December 2001 informal consultations with African ministers. One delegation particularly welcomed the proposed inventory of best practices for self-reliance strategies.

25. Many delegations confirmed that local integration was indeed a component of their refugee policies, underlining that it was a *process* involving the refugees as well as the host country community, entailing both responsibilities and obligations on the part of the host country and the refugees. Delegations from a number of developing host countries described their own approaches, including new initiatives, to local integration, focusing on poverty-reduction, infrastructure development and rehabilitation of refugee-hosting areas. These integrated approaches benefited refugees as well as the local communities - an important aspect stressed by many - thereby reducing competition for limited resources and fostering peaceful co-existence between refugees and local communities. Many delegations stressed the need for a development-oriented approach, close partnership and cooperation with development partners and, in particular, NGOs. Many also stressed the importance of UNHCR acting as a catalyst in this regard. One delegation recalled that the 1951 Convention was premised on local integration and another reminded the gathering of the obligation of signatory states to ensure that refugees can enjoy fully the rights associated with their status under the 1951 Convention/1967 Protocol.

26. Two delegations expressed concern that the background note did not sufficiently reflect the perspective of developing host countries, particularly those coping with situations of mass influx or protracted refugee situations. They underlined that parameters, such as the willingness of host countries to allow local integration, the numbers and profiles of the refugees and the socio-economic situation of the host country (including labour markets), all needed to considered before determining whether local integration was, indeed, a solution to be pursued. Another delegation suggested that the note could have benefited from an analysis of prior

experiences with this solution and the lessons learned. Two delegations also suggested that local integration would be inappropriate during the early stages of a refugee situation, since it might create a pull-factor. Other delegations suggested, however, that conditions militating in favour of integration included the persistence of protection needs, lack of prospects for return, the level of socio-economic integration already attained, links to the host country, as well as the skills of refugees.

27. Most delegations observed that the realization of local integration and self-reliance would hinge on active and, above all, sustained international support, in a spirit of international solidarity and responsibility-sharing. Overall, there was broad endorsement of the tenor of the note, including the definitions it contained and the concept of a *comprehensive durable solutions strategy* wherein local integration and self-reliance have their proper place. One delegation also proposed the formulation of an ExCom conclusion on the subject of local integration.

28. At the close of this agenda item, the Chairman provided a summary of main themes and recommendations for follow-up that had emerged from the discussions.

V. PROTECTION OF REFUGEE WOMEN AND REFUGEE CHILDREN

A. Refugee Women

29. The proceedings included a panel discussion on "Making Principles a Reality". It provided valuable specialist perspectives on: partnerships with refugee women; women's leadership, participation and decision-making; issues relating to safety and security, equal access to humanitarian assistance and essential services, and registration and documentation; and the need for gender-sensitive application of refugee law and procedures.

30 The Chief of DIP's PPLA introduced the background note on refugee women (EC/GC/02/8), noting that efforts had been made throughout the Global Consultations process to mainstream issues related to the protection of refugee women and gender equality. The note, jointly produced by DIP and the Senior Coordinator for Refugee Women and Gender Equality, summarized the key concerns of refugee women in five main areas: 1) safety and security; 2) equal access to humanitarian assistance and essential services; 3) registration and documentation; 4) gender-sensitive application of refugee law and procedures; and 5) trafficking in refuge women and girls. He announced that UNHCR had recently issued two new guidelines on international protection, focusing on interpretation of the refugee definition contained in Article 1 A (2) of the 1951 Convention, of special relevance to women.[7]

31. The Senior Coordinator for Refugee Women and Gender Equality added that, even in displacement, refugee women are not innately vulnerable to violence, but inappropriate responses, which ignore their specific needs and capacities, make them so. UNHCR, States and all other actors must therefore ensure that gender-sensitive prevention and response mechanisms are an integral part of all refugee programmes, and that the latter incorporate a gender-equality perspective from the very outset. A two-pronged strategy

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[7] *Gender-Related Persecution within the Context of Article 1 A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (HCR/GIP/02/01 (7 May 2002) and *"Membership of a Particular Social Group" within the Context of Article 1 A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees* (HCR/GIP/02/02) (7 May 2002).

would be required to bridge the gap between policies and implementation: targeted and consistent support, combined with a gender equality approach. This requires using a multi-sectoral approach, improving coordination among all partners, and encouraging equitable participation of refugee women in all decision-making, leadership and representation mechanisms.

32. Most delegations stressed the imperative to address refugee women's concerns, since this group represents over half of the beneficiaries of UNHCR programmes. Many delegations recalled that equality between men and women is recognized as a fundamental right, implying that action on behalf of refugee women needs to be rooted in international human rights standards, particularly the Convention on the Elimination of all Forms of Discrimination against Women. Many delegations also insisted that the protection of refugee women should go beyond *legal* protection, and encompass addressing physical security concerns, such as protection against sexual and gender-based violence. In this context, several delegations referred to reported instances of sexual exploitation in refugee programmes in West Africa, and insisted on a policy of zero tolerance with regard to sexual exploitation of both women and girls and the accountability of all humanitarian staff.

33. A number of delegations concurred with the assertion in UNHCR's background note, echoed in the panel and the introductory remarks, that the protection of refugee women requires a two-pronged approach: gender equality mainstreaming and targeted, specific action. Many delegations laid particular emphasis on the need to ensure women's access to information on an equal basis with men, to promote and enhance their active participation, and to improve their skills and capacities through adequate training and capacity building. Several delegations also stressed that men need to be involved in promoting and enhancing the enjoyment of refugee women's fundamental rights. Many delegations deemed the High Commissioner's five commitments to refugee women to be highly valuable, but affirmed the need for prompt and continued follow-up on implementation. The Senior Coordinator informed delegations that all Directors had reacted to the High Commissioner's request for information on implementation of the commitments and had been seeking feedback from offices in the field on their implementation. A report would be made available in June 2002, in the context of the High Commissioner's awards to individuals or groups to recognize achievements in promoting refugee women's rights and gender equality.

34. On the issue of gender-sensitive interpretation and implementation of refugee law and asylum procedures, many delegations emphasized that women should be allowed to lodge their own applications and recommended that more recognition be given to gender-specific grounds in assessing claims for refugee status. Most delegations also supported the recommendations relating to registration and documentation of refugee women and recalled that States had endorsed them on a number of occasions in the past. Several delegations felt that registration was an area that had lacked sufficient attention and would require renewed commitment on the part of States and UNHCR.

35. On the growing phenomenon of trafficking, many delegations concurred that trafficked women and girls should have access to asylum procedures were they to wish to lodge an application, but some cautioned that being a victim of trafficking would not be, in itself, sufficient grounds for the grant of refugee status. A number of delegations observed that victims of trafficking might be granted humanitarian status, if they were deemed not to fall within the 1951 Convention refugee definition. Many delegations felt that more could be done to address the special vulnerability of refugee women and girls to trafficking. In response, the Chief of PPLA referred to inter-agency

discussions on this issue within a working group focusing on smuggling and trafficking, and announced that UNHCR would issue guidelines on the issue. Two delegations stressed the need to see the issue of trafficking within broader human security and social development frameworks.

36. Regarding equal access of refugee women to humanitarian assistance and essential services, one observer delegation reported that its organization had recently concluded a comprehensive study on "*Women Facing War*", which had recommended, *inter alia*, that women should be directly involved in the planning, evaluation and implementation of aid programmes. Many delegations also emphasized the importance of women's equitable participation, to prevent the recurrence of instances of sexual exploitation. Several delegations observed that the specific needs of women who are deemed particularly vulnerable (pregnant women, single women and girls who head households, polygamous households, disabled women) should be identified and their protection needs addressed as a matter of priority.

37. A number of delegations also referred to the assertion that lack of financial and human resources had constituted a constraint to better implementation of policies and guidelines relating to refugee women. Some delegations cautioned against characterizing this as a major constraint in itself. Rather it was felt that funding decisions, including the reallocation and reprioritization of funds, could go a long way in overcoming this perceived constraint. In this context, several delegations also emphasized the need to recruit and retain more female protection and community services staff in the field, as well as to strengthen the office of the Senior Coordinator, in recognition that much progress remained to be done and that targeted action for refugee women continued to be needed.

38. There was broad recognition that the basic issue is not a need for more policies and guidelines, but instead to redouble efforts to achieve their full implementation. Several delegations stressed the urgency of adopting a more deliberate, systematic and structured approach to implementation, and to give refugee women (as well as children) a much more central focus in programme planning and implementation. A number of States urged UNHCR to establish an operations plan for mainstreaming women's issues, including benchmarks, monitoring and timelines. Many delegations recognized, however, that States have a key responsibility, within the global protection framework, better to address refugee women's protection needs. Others emphasized the importance of stronger partnerships between UNHCR and other key actors, including UNIFEM, UNICEF and OHCHR. Several delegations particularly emphasized the need for UNHCR's senior management to play a leadership role in ensuring and being accountable for full implementation of policies. They also urged UNHCR to review and, as necessary, follow up on the recent evaluation of implementation of UNHCR's policy on refugee women and guidelines on their protection.[8] Many delegations expressed the hope that refugee women's concerns would be more fully reflected and "mainstreamed" throughout the Agenda for Protection.

B. Refugee Children

39. The proceedings included a panel discussion on refugee children on the theme of "Making Principles a Reality", with representatives from UNICEF and the International Save the Children Alliance, the team leader of a recent

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[8] *UNHCR Policy on Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation*, Women's Commission for Refugee Women and Children (May 2002).

independent evaluation of UNHCR's activities for refugee children[9], and a refugee youth. The panellists emphasized that actions to address children's protection needs were necessarily interrelated and needed to be fully and systematically integrated into programming initiatives from the outset of any emergency. They observed that particular attention needed to be paid to social protection issues, and to ensuring the active participation of children in all stages of protection strategy development and programme design. One panellist described "partnership" to protect refugee children as meaning "sharing responsibilities", including support for the inherent capacity of the refugee community to protect itself.

40. The Deputy Director of DIP introduced the background note on refugee children (EC/GC/02/9), jointly prepared by DIP and the Senior Coordinator for Refugee Children. He observed that, despite the development of a basic legal and policy framework for the protection of refugee children, full implementation remained lacking. This had been confirmed by the recent independent evaluation. Regrettable examples of this gap included the situation in West Africa. The aim of the background paper was to highlight the six most salient issues facing refugee children today: 1) separation; 2) sexual exploitation, abuse and violence; 3) military recruitment; 4) education; 5) detention; and 6) registration and documentation.

41. The Senior Coordinator for Refugee Children focused on progress that had been achieved by UNHCR and its partners since the report submitted two years earlier to the Standing Committee.[10] Areas of progress included improved statistical data on refugee children/adolescents; invigorated inter-agency efforts to address the concerns of separated children, notably through the Separated Children in Europe Programme; implementation of multi-sectoral prevention and response activities addressing sexual exploitation, abuse and violence; strengthened advocacy against the use of child soldiers in all circumstances; and expansion of the training and capacity-building Action for the Rights of Children initiative, which was also an inter-agency effort.

42. A number of delegations commended UNHCR for initiating the independent evaluation on refugee children. Many concurred with the evaluation's findings that adequate standards and guidelines were available, but that insufficient implementation and lack of accountability had reduced their effectiveness. Several delegations urged UNHCR to follow up on the evaluation's recommendations in a timely manner, and to establish a plan for implementation, including specific steps, timelines, and a clear indication of the human and financial resources required.

43. Many delegations supported UNHCR's rights-based approach to the protection of refugee children. There was, moreover, general agreement that the concept of protection not only encompassed legal aspects, but included social and physical aspects. Furthermore, many delegations considered the active participation of refugee children, notably adolescents, in programme design to be of critical importance. This was in line with the testimony of the refugee youth, who participated both in the panel and the general debate. Several delegations recommended that refugee children's issues be reflected in all relevant chapters of the Agenda for Protection, in addition to the more specific chapter dealing with refugee women and refugee children.

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[9] *An Independent Evaluation of the Impact of UNHCR's Activities in meeting the Rights and Protection Needs of Refugee Children*, EPAU/2002/02 (May 2002).

[10] EC/50/SC/CRP.7 of 7 February 2000.

44. Several delegations welcomed the entry into force of the two Optional Protocols to the Convention of the Rights of the Child: on the Sale of Children, Child Prostitution and Child Pornography, as well as on the Involvement of Children in Armed Conflict. A number of other delegations pointed to the protection afforded to refugee children by other human rights instruments and humanitarian law. There was general agreement that unaccompanied and separated refugee children are particularly vulnerable to sexual exploitation and abuse, as well as detention, child labour, military recruitment and denial of access to education and basic assistance. Many delegations also agreed that unaccompanied and separated children should be consulted and their views taken into account whenever decisions affecting them were made. Some delegations, however, voiced concerns with respect to UNHCR's recommendation regarding children whose applications for refugee status had been rejected.[11] They argued that, in practice, such a policy would not always be practicable, and that it would be appropriate to consider that the government of the country of origin would be the primary caregiver. One delegation also referred to the growing trend for families to send children abroad to create a "migration anchor", and observed that consideration needed to be given to measures to discourage such a practice. Some delegations asserted that, in certain cases, family reunification might not be in the best interest of the child, including in cases where the child had been the victim of sexual violence within the family or in child-soldier situations, where reunification had not proved durable in some cases.

45. Delegations unanimously condemned the alleged sexual exploitation of refugee children in West Africa and urged UNHCR to tackle the issue promptly and effectively, in order to counter impunity and avoid repetition elsewhere. Several delegations welcomed the global measures already taken by UNHCR, and the valuable work of the Inter-Agency Task Force on Protection from Sexual Abuse and Exploitation in Humanitarian Crises. The Director of DIP stressed that UNHCR's senior management took the issue very seriously indeed, and that the High Commissioner had communicated a strong position in this regard to all staff. The Director described actions already being taken in the field, but also pointed out that the legal systems in some countries did not effectively provide for adequate prevention and response. Many delegations pointed to the role refugee communities can play to protect refugee children, and the importance of informing refugees of their rights to protection and their entitlements to assistance. Moreover, a number of delegations referred to underlying special power relationships that might provide fertile ground for exploitation and abuse that would need to be further examined, in order to identify risks of potential exploitation.

46. Delegations widely acknowledged the important role of education as a tool of protection, especially in the early stages of any emergency, that could restore a sense of normality for refugee children. A number of delegations pointed out that particular attention needed to be paid to the specific needs of adolescents and refugee girls, which included non-formal and secondary education opportunities. Furthermore, there was broad recognition that access to education was a critical factor for attaining any durable solution - since it would facilitate reintegration in the country of origin or integration in the host country or country of resettlement. Several delegations encouraged UNICEF to take on a more active role in setting in place or contributing to education programmes for refugee children.

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[11] See EC/GC/02/9, para. 9. "Rejected child asylum-seekers should only be returned after final determination that they are not in need of international protection, and subject to the identification of an appropriate family member or caregiver in the country of origin, willing to receive and care for the child."

47. On the problem of military recruitment, delegations favoured a holistic approach, including on the related issues of demobilization, reintegration and education. One delegation stressed that the particular needs and experiences of girls (i.e. both as child soldiers and camp followers) should also be taken into consideration. One observer delegation stressed the detrimental impact of detention on the physical and mental health of children and adolescents. There was general agreement on the importance of early registration and documentation. One delegation stressed that documents for refugee girls were particularly important, as they face "double" discrimination in this regard - both for being females and children/adolescents. Another delegation requested an increase in the presence of UNHCR protection staff in the field, as well as the introduction of a standardized registration system.

48. There was broad agreement on a number of issues, notably on the need for the effective implementation of guidelines on refugee children and the reflection of children's protection issues in all programming activities and relevant sections of the AFP. At the same time, there was a strong call to give to refugee children and adolescents a voice in identifying protection priorities and designing appropriate programmes. To complement the existing legal framework, States that have not yet done so were encouraged to accede to the Convention on the Rights of the Child and its two Optional Protocols. There were repeated calls for UNHCR to co-operate more closely and "share responsibilities" more effectively with UNICEF. One delegation suggested that the Memorandum of Understanding between both organizations be updated. A number of delegations identified the trafficking of children as a major concern, which required follow-up.

49. At the end of this item, the Chairman provided a brief oral summary describing some of the key issues and understandings emerging from the discussions on refugee women and refugee children. He recalled that a written summary would be circulated after the meeting.

VI. CLOSING OF MEETING

50. Noting that this would be the last formal meeting in the Global Consultations process, many delegations conveyed their appreciation to UNHCR, and notably to the Director of DIP, for UNHCR's initiative to launch the process and see it through to its completion. Many concurred that the Global Consultations process had indeed contributed to strengthening dialogue on refugee protection and revitalizing the international refugee protection system. Many delegations pledged their commitment to working with UNHCR and other partners on the Agenda for Protection.

51. In closing the meeting, the Chairman thanked delegations for their active participation and useful contributions. He was especially grateful for the sprit of consensus that had prevailed throughout the proceedings and had contributed to the success of the Global Consultations.